

Requested by Representative SALINAS (at the request of the Oregon Health Authority)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2081**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating  
2 new provisions; and” and delete “and 442.386” and insert “, 442.386 and  
3 442.993”.

4 On page 3, line 17, delete “If appropriate,” and after “to” insert “develop  
5 and” and delete “action”.

6 After line 18, insert:

7 “(7)(a) The authority shall adopt by rule criteria for waiving the re-  
8 quirement for a provider or payer to undertake a performance improvement  
9 plan, if necessitated by unforeseen market conditions or other equitable fac-  
10 tors.

11 “(b) The authority shall collaborate with a provider or payer that is re-  
12 quired to develop and undertake a performance improvement plan by:

13 “(A) Providing a template for performance improvement plans, guidelines  
14 and a time frame for submission of the plan;

15 “(B) Providing technical assistance such as webinars, office hours, con-  
16 sultation with technical assistance providers or staff, or other guidance; and

17 “(C) Establishing a contact at the authority who can work with the pro-  
18 vider or payer in developing the performance improvement plan.

19 “(8) A performance improvement plan must:

20 “(a) Identify key cost drivers and include concrete steps a provider or  
21 payer will take to address the cost drivers;

1 “(b) Identify an appropriate time frame by which a provider or payer will  
2 reduce the cost drivers and be subject to an evaluation by the authority; and

3 “(c) Have clear measurements of success.

4 “(9) The authority shall adopt by rule criteria for imposing a financial  
5 penalty on any provider or payer that exceeds the cost growth target without  
6 reasonable cause in three out of five calendar years or on any provider or  
7 payer that does not participate in the program. The criteria must be based  
8 on the degree to which the provider or payer exceeded the target and other  
9 factors, including but not limited to:

10 “(a) The size of the provider or payer organization;

11 “(b) The good faith efforts of the provider or payer to address health care  
12 costs;

13 “(c) The provider’s or payer’s cooperation with the authority or the de-  
14 partment;

15 “(d) Overlapping penalties that may be imposed for failing to meet the  
16 target, such as requirements relating to medical loss ratios; and

17 “(e) A provider’s or payer’s overall performance in reducing cost across  
18 all markets served by the provider or payer.”.

19 On page 5, line 21, delete “action”.

20 On page 6, line 3, delete “action”.

21 Delete lines 8 through 21 and insert:

22 “**SECTION 5.** Section 5, chapter 560, Oregon Laws 2019, is amended to  
23 read:

24 “**Sec. 5.** (1) No later than September 15, 2020, the Health Care Cost  
25 Growth [*Benchmark*] **Target** Implementation Committee shall report to the  
26 Oregon Health Policy Board for approval, and to the interim committees of  
27 the Legislative Assembly related to health, the committee’s recommendations  
28 under section 4, [*of this 2019 Act*] **chapter 560, Oregon Laws 2019**. The re-  
29 port shall include a legislative concept for carrying out the provisions of  
30 section 4 (2)(k)(B), [*of this 2019 Act*] **chapter 560, Oregon Laws 2019**, re-

1 guarding the imposition of performance improvement [*action*] plans or other  
2 escalating enforcement actions when a provider or payer fails to remain at  
3 or below the health care cost growth [*benchmark*] **target**.

4 “(2) The Oregon Health Authority and the Department of Consumer and  
5 Business Services shall implement the recommendations of the committee[,  
6 *except for the provisions in the legislative concept described in subsection (1)*  
7 *of this section, upon approval by the board*].

8 **“SECTION 6.** ORS 442.993 is amended to read:

9 “442.993. [*(1) Any reporting entity that fails to report as required in ORS*  
10 *442.373 or rules of the Oregon Health Authority adopted pursuant to ORS*  
11 *442.373 may be subject to a civil penalty.*]

12 “[*(2)*] (1) The **Oregon Health** Authority shall adopt a schedule of **civil**  
13 penalties not to exceed \$500 per day of violation, determined by the severity  
14 of the violation, **for:**

15 **“(a) Any reporting entity that fails to report as required by ORS**  
16 **442.373 or rules adopted by the authority.**

17 **“(b) Any provider or payer that fails to report cost growth data or**  
18 **to develop and implement a performance improvement plan if required**  
19 **by ORS 442.386 or rules adopted by the authority.**

20 “[*(3)*] (2) Civil penalties under this section shall be imposed as provided  
21 in ORS 183.745.

22 “[*(4)*] (3) Civil penalties imposed under this section may be remitted or  
23 mitigated upon such terms and conditions as the authority considers proper  
24 and consistent with the public health and safety.

25 “[*(5)*] (4) Civil penalties incurred under any law of this state are not al-  
26 lowable as costs for the purpose of rate determination or for reimbursement  
27 by a third-party payer.

28 **“(5) Moneys collected from providers and payers described in sub-**  
29 **section (1)(b) of this section shall be deposited in the Oregon Health**  
30 **Authority Fund established by ORS 413.101 and used by the authority**

1 to support programs that expand access to health care and that sup-  
2 port populations adversely affected by high health care costs.

3 **“SECTION 7. A financial penalty described in ORS 442.386 (9), as**  
4 **amended by section 2 of this 2021 Act, may be imposed no earlier than**  
5 **January 1, 2026, for performance by a provider or payer in meeting**  
6 **cost growth targets during calendar years 2021 to 2025.”.**

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